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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/585,687	03/23/2007	Mamoru Yasui	TKMTP135	4706
22434 7590 09/16/2010 Weaver Austin Villeneuve & Sampson LLP P.O. BOX 70250 OAKLAND, CA 94612-0250				
EXAMINER				
MESH, GENNADIY				
ART UNIT		PAPER NUMBER		
1796				
NOTIFICATION DATE		DELIVERY MODE		
09/16/2010		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTO@wavsip.com

### Office Action Summary

**Application No.**

10/585,687

**Applicant(s)**

YASUI ET AL.

**Examiner**

GENNADIY MESH

**Art Unit**

1796

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 August 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 3-22 is/are pending in the application.
- 4a) Of the above claim(s) 12-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/GS/US)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1.1. Applicant's Amendment filed on August 23, 2010 is acknowledged.

Claim 2 has been cancelled by Applicant. Claims 12-22 have been withdrawn. Support for amendment of Claim 1 has been as indicated by Applicant. Thus, no New Matter has been added with this Amendment.

1.2. Despite the amendments to the claims, the prior art utilized in the preceding Office Action continues to be applicable and rejections over that prior art are suitably framed in order to meet the claimed limitations as explained below. Therefore, it is proper to make this action Final.

***Response to Amendment***

2. The Declaration under 37 CFR 1.132 filed August 23, 2010 is insufficient to overcome the rejection of Claims 1 and 3-11 rejected under 35 U.S.C. 102(e) as being anticipated by Hayes (US 2005/0027098) as set forth in the last Office action because the showing provided by Declaration under 37 C.F.R. 1.132 can not overcome anticipatory rejection - see MPEP 706.02(b).

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Claim Rejections - 35 USC § 102***

3. Claims 1 and 3-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Hayes (US 2005/0027098).

Regarding Claims 1 and 3-11 Hayes disclosed polyester composition comprising, 25wt% of sulfonated aromatic-aliphatic polyester and 75 wt% polylactide (see abstract and paragraph [0215]), wherein sulfonated component is metal salt of 5-sulfoisophthalic acid or a lower alkyl ester of 5-sulfoisophthalate and can be present in range from 0.1 to 5.0 mole% (see paragraph [0022]) which lead to range of approximately 0.025 to 1.25 wt% based on whole composition.

Note that presence of polylactide (100 mole% of lactic acid) in composition disclosed by Hayes reads on limitation of Claims 6-11.

Regarding Claim 3 Hayes discloses that metal salt can contain monovalent or polyvalent alkali metal as sodium, potassium or others (see paragraph [0026]).

Thus, all compositional limitations claimed by Claims 1, 3 and 6-11 are met by Hayes.

Regarding Claim 4 and 5 note that as substantially same composition disclosed by Hayes will inherently have same properties, including crystallization peak at same temperature and same heat of crystallization.

***Response to Arguments***

4. Applicant's arguments filed August 23, 2010 have been fully considered but they are not persuasive.

Note that because Applicant's arguments based on Declaration submitted under 37 CFR 1.132, which was found insufficient to overcome the rejection of Claims 1 and 3-11 as being anticipated by Hayes (US 2005/0027098), than Applicant's arguments were found unpersuasive.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **GENNADIY MESH** whose telephone number is (571)272-2901. The examiner can normally be reached on 10 a.m - 6 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272 1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Milton I. Cano/  
Supervisory Patent Examiner, Art Unit 1796

Gennadiy Mesh  
Examiner  
Art Unit 1796

/GM/